THE CONSTITUTION (AMENDMENT) BILL, 1998 (TO AMEND ARTICLE 16)

SHRIMATI VEENA VERMA (Madhya Pradesh): Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

The question was put and the motion was adopted.

SHRIMATI VEENA VERMA: Sir. I introduce the Bill.

THE PUBLIC LIBRARIES BILL, 1998

SHRI KARTAR SINGH DUGGAL (Nominated): Sir, I beg to move for leave to introduce a Bill to provide for the organisation and development of public libraries in the Union territories and for matters connected therewith and incidental thereto.

The question was put and the motion was adopted.

SHRI KARTAR SINGH DUGGAL: Sir, I introduce the Bill.

THE CONSTITUTION (AMENDMENT) BILL, 1998 (TO AMEND ARTICLE 74)

DR. Y. LAKSHMI PRASAD (Andhra Pradesh): Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

The question was put and the motion was adopted.

DR. Y. LAKSHMI PRASAD: Sir, I introduce the Bill.

The Vice-Ckhairman (Miss Saroj Khapade) in the Chair

THE PUBUC INTEREST LITIGATION (REGULATION) BILL, 1996 Contd.

SHRI JOHN F. FERENANDES (Goa): Madam Vice-Chairman, I think this Bill was debated late time and it is only in continuation. I did not say I am rising either to support this Bill or to oppose this Bill because I am going to give my arguments. Madam, if anything good has happened in this country for the past forty-five years, if is the evoloution of the public interest litigation, that is, the inherent powers of the Judiciary to regulate and to codify as to what is permissible and what is within their jurisdiction to do. We have seen as to what the genesis of the public interest litigation is. A postcard was written by a prisoner who was condemned in a cell. Against the mismanagement by the jail authorities, against the jail manual, a post-card was written by a prosoner, and that was converted into a public interest litigation by the hon. Court. When the Parliament passes a law, we codify what should be the justice in the country, and when justice is not meted out to its citizens,

----- they may be free citizens or they may be condemned prisioners---------they are all governed by the law of the land, whether they are condemned prisoners or they are free citizens. If justice is not properly done to them, it amounts to our closing one eye, the proverbial Nelson's eye, and allowing the judiciary to step in and play its own role. In other words, it is called judicial activism. Of late, judicial activism has been debated in this country. We have seen for the last four or five years that politicians, corrupt politicians, were brought into the net of public interest litigation. We have seen so many Commissions are set up by the Government. Sir, whenever a criminal act is committed by any citizen of the country, it is for the State to file a prosecution. But we often see that politicians themselves are at the helm of affairs, it may be the Prime Minister, it may be a Home minister, it may be a Chief Minister; they are people who are in charge of the prosecuting authorities like the CBI. the CBI was under the Prime Minister. I don't know why it has now been taken over by the Home Ministry when the Minister himself is under a cloud. In the States we see that the police, the prosecuting authorities are under the Home Minister, who is ofter the Chief Minister. Can these subordinate authorities who are under the control of that superior

authority file a case and prosecute them? I am asking this because they have to take permission, and I don't think they "hare the courage and wisdom to go and approach to their superiors for taking permission. No CBI director will go and ask the Prime Minister, for that matter now it is the Home Minister—whether he can file a case against him, unless he is directed by the court. That direction can come from the court, rlevant court, only if there is a public interest litigation. Sir, we have seen it in many scame-I don't want to name them; then there will be controversies because I will be referring to various parties. I see that something good has happened in the golden juiblee year. It is the so-called judicial activism where justice can be given to the poorest of the poor in this country, without engaging any lawyer, without paying any court fee. But, at the same time, this system has also its own drawbacks. We have to see whether this system was misused by the judiciary. We have heard the pronouncements of lower courts. In many cases, the politicians were charge-sheeted and aspersions were cast on the morality of police men, the functioning of this Parliament. Of course, subsequently it was expunged by the higher courts, the Supreme Court and the High Courts. But what about the utterances that were made by the lower courts on these public men? It was indicated by the higher court that it was not true. These public interest litigation pronouncements were made just to entertain the gallery because a judge is not supposed to be a chief guest at a public function as we politicians do. But when you dish out controversial judgements, then you become controversial, you become popular. Madam, this malady can be done away with. I have been repeatedly saying in the House—I said it the other day also—that we have a code of conduct, we have the Rules Book, the rules framed by us. Now the courts have to function within the codified rules. They themselves have to frame the rules for themeselves, as the House has made rules for itself. Of course, the statute is there generally to control the activities of all citizens in the country, and I did mention the other day, because our Law Minister is a new Minister, that the Government of India has submitted a Report in 1993 suggesting that there should be a code of conduct for the judiciary also. Often the lower courts cast aspersions on the judge of a higher court which is not permissible, which is not within its jurisdiction, which is not tenable legally. Now the Law Minister has rightly sent this Code of Conduct to the judiciary, to the Supreme Court, for its comments. It is almost five years now. But there is no response from the judiciary. I had put a question to the hon. Minister the other day. I think he has collected the information and he will let us know while replying to the Bill of my hon. colleague. When we think and talk of the electoral reforms, revamping of the electoral system, we talk of reviewing the Constitution as a whole. That is the programme of the Government of the day. why is the Government not taking any initiative to see that judiciary themselves comments on the Code of Conduct? I don't think it is proper for the Parliament to pass a legislation and tell them what they should do. It is within their wisdom, it is within their jurisdiction, to rightly apply their mind and see which is a frivolous petition and which is not a frivolous petition and who is a frivolous litigant. There is a law in the statute. If a person files a wrong charge against me, the lower courts will see whether there is any *locus standi* and whether there is any *prima facie* evidence and I have a remedy under the same legal system. Madam, you know the relevant portion of-the defamatory clause under the IPC. I have a remedy and I can take him to court. Of course, the process will be a long one. I appreciate public interest litigation. At the same time, I have also to say that there are 50 lakh cases which are pending in the country for years together. I wouldn't have criticised the judiciary if they had done their duty, if they had at least lowered the burden of pending cases.

Each case in a court runs for five to twenty years. You know "justice delayed is justice denied". I am not saying justice should be hurried. Then it may be said "justice hurried is justice invalid". There are arguments for and against. But I think it would be proper if the Government calls a meeting of the judiciary and the Law Ministry and they should evolve a code of conduct for this type of petitions, public interest litigations. I don't think it is proper for this parliament to tell them as to what they should do. It is an inherent power of the judiciary. It is not only the Parliament which makes law but the judiciary also, through the judgments delivered by them, create law. There are many speaking orders from the judiciary which have opened the eyes of the politicians as also the legislators. They are also there in the statute. I don't think it will be proper for us to discipline the judiciary. I think the judiciary should self-discripline themselves. I don't know whether there is any recommendation. It was stated by the previous Government also that they would bring a legislation before the Parliament and there would be a national debate. Many of my colleagues—I happen to belong their profession—raised objections to it. They find that most of the cases, public interest litigations, pending in the courts are against the politicians, corrupt politicians. Therefore, the politicians have ganged up to bring a law in the Parliament to curtail the powers of the judiciary. I think such a signal should not go from this House and, more so, in the 50th year or in the golden jubilee year of our indepen dence. As we are going to review the Constitution after 50 years, I think the judiciary would themselves find a way and see to it that they regulate and control themselves by an inner mechanism, a judicial mechanism. I have mentioned about the rule book. Everything in this House is not controlled by the rules. The business of this House is controlled not only by the rules but also by the railings of the Chair. That is the convention. I think it is not for us to tell the judiciary how they should behave and how they should conduct themselves. I hope my colleauge, Mr. Suresh Pachori, would not be disherteaned because I am not for regulating the judiciary.

3.00 P.M.

But we can tighten the existing law to see that errant petitioners and frivolous petitioners are punished. We need not go in for a second petition. If a petitioner fails against me, I should not file a case, an anti-defamatory case against him to get myself entangled in it for another 10 years OT SO beacuse justice comes very slow in this country, more so in defamatory cases. In other countries, awards are given within three or four months. But it is not so in this country. We can incorporate some mechanism in the existing IPC or a separate clause can be incorporated in regard to defamatory cases in order to see that frivolous petitioners are punished summarily. I hope the Government will take me seriously. I feel that it will not be appropriate for us to legislate because they are the most popular people. At a time when we see a lot of PILs, if a Judge retires and then fights an election, he will outwit any politician. I think that is the only popular mechanism which should be retained. Thank you.

DR. Y. RADHAKRISHNA MURTY (Andhra Pradesh): Madam, I rise to oppose this Bill. But, at same time, I would like to congratulate Shri Suresh Pachouri who has introduced this Bill. It has given us a chance to think about PILs to go a little deeper into the matter and also to discuss the pros and cons of PILs. There are two points which the hon. Member has specifically mentioned in the Bill. One is the question of *locus standi,* whether a person who goes in for a Public Interest Litigation has got the *locus standi* or not, and if a person has no *locus standi* whether he can go to court or not. The second important point in this Bill is about punishment in the case of a petitioner who fails to prove the case. These are two very important

aspects in this Bill. I would like to go into the background of Public Interest Litigation. It is said that PIL is essentially a cooperative and collaborative effort between the State, the petitioner and the court. It is a cooperative effort of these three organisations. Therefore, rather than traditional litigation, it is the PIL which involves these three organisations. I would like to compliment Justice Bhagwati as the path-finder who had defined PIL as a strategic arm of legal aid. We are all talking of legal aid and all that. He has defined PIL as a strategic arm of legal aid intended to bring justice within the reach of the poor masses who constitute a low visibility area of humanity. This is the most important aspect regarding PIL. Now so many developments have_ taken place. This question of strict rule of *locus standi,* which was there earlier, has been given a go-by by the Supreme Court itself. They said, "Instead of the rule of *locus standi,* we have to take the principle of participative justice". I am not quoting it because I don't want to take more time of the House. We should appreciate this particular aspect because we have to take the principle of participative justice because public vigilance is the most important aspect of PIL. I would like to quote one classical statement of Shri T.P. Currain of the Middle Temple. He said, "The condition on which the God has given liberty to man is eternal vigilance." Even people who believe in God,—I do not believe; God has to be believed,—God has given us freedom and the condition for that freedom is eternal vigilance. If you don't have that eternal vigilance we do not deserve that freedom and. we don't have that freedom. These are the famous words which were said in 1799 and it holds true even today. A court cannot reject a public interest litigation on the ground of non-availability of sufficient material at the initial stages because court has got a power to appoint an *amicus curiae* and a fact-finding body to find out the truth. This has been done a number of times in the history of our courts during the last one or two decades and it has given very good results. Then, coming to the achievements, we have given so much credit to public interest litigation and people who had initiated these things. A public interest litigation had acted as a Whip to the executive and the political administration, on the one hand, and as a weapon in the hands of the poor and the neglected sections of our society on the other. There are many and varied issues hitherto glossed over. They are brought to the light before the people and they make people think about them seriously and see how things arc going around. The insensitiveness of man and administration and man's inhumanity to man, of his treachery to nature and society by passing known and unknown laws, Acts, orders and conventions were brought into focus by the Public Interest Lititation Act. So many issues have come during the last one decade or two decades. One important thing is, Madam, that Cases relating to human rights, minimum wages, levelihood of fishermen, industrial hazards and environment, bonded labour, child labour, conditions in jail, Bihar jail blindings, undertrial prisoners languishing in jail after completing their term and, of course, lately, the political corruption at high places, are brought under glaring flood lights by the public interest litigation. We have a variety of silent and soft crimes in this country who do not see the light and they have seen the light because of public interest litigation. One last point that I want to make is the question of judicial hyper activity. Everyone looks at these points from his own subjective angle, from his own political party's angle. When someone's dirty linen is washed in the public, we do not like to see that; we blame the system. The system which had exposed the dirt and all of us agree that there is a need for a fresh and welcome air when there is an institutional failure and the gross and inexcusable failure of the executive due to gradual erosion of moral values. That is how it was to be. It has always been so when the pendulum begins to swing, it will over- shoot some-

times and that need not attract unnecessary comments, unacceptable judgements here and there. Judiciary, as my friends pointed out, has got self-regulatory mechanism and that has been proved time and again in a number of cases where the Supreme Court had re-primanded the lower courts when they had gone a little too far. For example, roads for Harijans, anti-ragging laws. The High Courts had ordered for them but the Supreme Court stayed such orders saying that it is not your duty to order, your only duty is to wake up the executive from its stupor and not take upon the executive functions. The courts lack army and money, they cannot enforce or implement their decisions; but the Governments have a moral fear of these judgments. As long as Governments are accountable to the people, and the people still have respect for the judiciary and as long as it has the moral effect, I think public interest litigation should be there. Then, coming to frivolous litigation, it can be left to the judiciary to sift the grain from the chaff. Then, coming to litigation, it can be left to the judiciary to sift the grain from the chaff. As far as the proposed punishement, monetary or otherwise is concerned—the last point which he had pointed out—for the petitioner when he looses the case, it is less said the better. I will give just one example and conclude, Madam. When the prosecution fails to prove a case in a court of law, they are not punished. Even the courts sometimes come to wrong conclusions and the higher courts modify or annul those decisions or even admonish the lower courts. They are not punished. Should they be punished or jailed for these genuinely wrong conclusions?

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Dr. Murty, please conclude.

DR. Y. RADHAKRISHNA MURTY: Just one second. So, the proposal of the Member in his Bill will only stiffle the enthusiasm of purftic-spirited people to take up the cause of the ignorant, the poor, the wronged, the oppressed, the helpless and the silent sufferers and give unfettered freedom to the errant executive.

SHRI SANATAN BISI (Orissa): Madam, this Bill relates to one procedural matter. So far as this Bill is concerned, the relevant article of the Constitution is Article 32. In this Article, remedies for enforcement of rights have been given. Sub-clause (1) of Article 32 says:

> "The right to move the Supreme Court by appropriate proceedings for the endorcement of the rights conferred by this Part is guaranteed"

Sub-clause (2) says:

> "The Supreme Court shall have power to issue directions or orders..."

Madam, sub-clause (3) is very relevant to the Bill because my friends has sought an amendment of the definition. The 'court' means any court of law in India, including the Supreme Court and the High Courts. So, sub-clause (3) says:

> "Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)".

So, here by virtue of Article 32, the Supreme Court is already empowered, as a result of which it is applicable so far as other courts are concerned.

the other thing that I want to submit is thai so far as Section 2, clauses (a), (b), (c) and (d) of the proposed Bill are concerned, it has already been enunciated by the Supreme Court and it has been elaborated in such a manner as to what scope, objects, matters of petition come within its jurisdiction. The scope and objects of such litigations have been settled by a plethora of judgements.

The third thing is, if a petitioner raises a substantive issue, then the intervention of the Court is necessary. Orders which can be passed in Public Interest Litigations have been defined. Lastly, so far as clause (3) is concerned, if the court finds that the petition fulfills the provisions of sub-section (2), it shall order the registration of the petition as Public Interest Litigation in such a manner as may be prescribed. So, Madam, directions to be given by the court in such litigations have been completely settled.

So, my submission before the House is that PIL has got very wide implications. PIL doesn't mean settlement of disputes between individual parties. Secondly, chances of gross violation of Fundamental Rights are mentioned relating to groups or classes or sections. PIL is meant for protection of basic human rights, for remedying the hardships or miseries of the needy, the neglected—which is an anti-thesis of private self-interest—in-capacity, proverty, etc. so, my submission is that so far as citations are concerned, it has been very clearly enumerated in Durga Dass's book, at page 290 and I think the apprehension in the mind of my friend will be removed. There is no doubt that such things will happen. Madam, so far as the present Public Interest Litigation is concerned, it is an appropriate and welcome thing. I would suggest that my learned friend should go through these citations and appropriate his own mind.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND THE MINISTER OF .SURFACE TRANSPORT (SHRI M. THAMBI DURAI): Madam, the hon. Member, Shri Suresh Pachouri, had introduced the Public Interest Litigation (RegulajSon) Bill, 1996 in Rajya Sabha on 20th iSecember, 1996 with a view to regulate the Public Interest Litigations and to make it mandatory for the courts to entertain such litigations on the basis of *locus standi* alone and to provide for deterrent punishment in case petitioners failed to prove the charges levelled in such petitions and for matters connected therewith and incidental thereto.

Madam, the hon. Member Shri Suresh Pachouri has some apprehensions as these Public Interest Litigations are becoming popular nowadays. Many people are going to courts and filing cases there. Therefore, he fears about the popularity of persons who are filing their cases and finally many persons are acquitted. That is his worry. Madam, actually in this kind of a thing, the Supreme Court has the power. The same procedure is also fol- V-lowed by the High Courts. We cannot interfere in the filing of those writs. Mr. Fernandes mentioned that we should not interfere in the judicial system because it *f* will give a wrong signal that the Parliament is interfering in the working of the Judiciary and regulating it. Therefore, he also said that we have to give independence to the Judiciary. Therefore, in these circumstances, we hope the judges who are competent people would judge whether a Public Interest Litigation is correct or not.

Madam, most of the Members who participated in the Debate opposed the Bill which has been introduced by Shri Suresh Pachouri. They said that a well-guarded system is always prevailing in our judicial system, therefore, we need nor fear unnecessarily on that count. But, at certain times, it may have its own adverse effects also. I can understand it. But, in most of the cases, like pollution, bonded labour, etc., it is helping the public. Now, many people are going to courts on corruption charges. It has become very popular nowadays. Many people are going to courts to defame the politicians also. That is a fact. Many of the people whom you would have seen in courts, most of them are acquitted finally. We have to think about the agonies which the politicians undergo in courts. I can understand how much they suffer there. Once the name of a politician or an officer or a public man is spoiled, it is spoiled. The Press is also highlighting those things. That way, it is affecting them. There is no doubt about it. But,

for that we have to have some code of conduct. Mr. Fernandes also said that we cannot ask the judges that they have to follow these things. He said that the judges should perform their duties in such a manner so that it should not create any doubts in the minds of the people. That is his argument. We hope that the judges will follow those things. If the Parliament passes some legislation for regulating them it may give a wrong signal. It would mean that the Parliament is interfering in a matter where the people wanted to raise certain things in courts. Therefore, many hon. Members said that such a signal should not go. I request the hon. Member Shri Suresh Pachouri not to insist on this Bill and withdraw it because most of the members also felt that if necessary the Government can go to the Law Commission. These are the things which we refer to the Law Commission. In course of time, we would try to bring in some kind of a legislation and the hon. Members could express their views on that. I request Shri Suresh Pachouri to withdraw his Bill.

श्री सुरेश पचौरी (मध्य प्रदेश): उपसभाध्यक्ष महोदय, सबसे पहले तो मैं उन वक्ताओं के प्रति कृतज्ञता वुअक्त करता हुं, जिन्होंने, जो मैंने "पब्लिक इंटरेस्ट लिटिगेशन (रेगुलेशन) बिल, 1996" प्रस्तुत क्या था, उसके संबंध मेम अपना मत व्यक्त किया है ।

महोदया, मैं इस बात का तो पक्षधर हूं कि पब्लिक इंटरेस्ट लिटिगेशन किए जाने चाहिए, उन्हें कर्ज नहीं किया जाना चाहिए, लेकिन इस पब्लिक इंटरेस्ट लिटिगेशन की प्रथा प्रारंभ करने के पीछे जो मंशा रही है, जो भावना रही है, उस भावना को दृष्टिगत रखा जाना बहुत आवश्यक है । मैं अपनी बात को नहीं दोहराना चाहता, लेकिन अपने स्टेटमेंट में माननिय मंत्री जी ने उसका संकेत दिया है कि हम चाहते तो है कि गरीब को न्याय मिले, हर आदमी को स्वतंत्रता मिले कोर्ट का दरवाजा खटखटाने की, कोई भी न्याय से वंचित न रह पाए । हम यह भी चाहते है कि पब्लिक इंटरेस्ट लिटिगेशन को कुछ वकील अपनी पब्लिसिटी का माध्यम न बनाएं, कुछ राजनैतिक अपने विरोधियों से बदला लेने का माध्यम इसे न बनाएं और अपने पोलिटिकल स्कोर सेटल न करें । इसके पीछे कहीं न कहीं, कुछ न कुछ मापदंड तय करने की आवश्यकता है, कोई कोड आफ कंडक्ट बनाने की आवश्यकता है, कहीं न कहीं इस पर अंकुश लगाने की आवश्यकता है ।

महोदय, यद्यपि सुप्रीम कोर्ट में एक सेल बना है पब्लिक इंटरेस्ट लिटिगेशन सेल, जो इस बात की स्क्रूटनी करता है जो लेटर्स आते हैं, उन लेटर्स में केस बनता है या नहीं, उसमें केस ग्रहण किया जी या नहीं और यह भी देखा जाता है कि संविधान के आर्टिकल 32 के आधान पर सुप्रीम कोर्ट में यह पीआईएल एक्सेप्ट हो सकता है या नहीं और आर्टिकल 226 के आधार पर हाईकोर्ट में पीआईएल दायर किया जा सकता है या नहीं । खासतौर पर जो पब्लिक इंटरेस्ट लिटिगेशन सेल बना, उसके पीछे दरअसल यह था, सोशल एक्शन लिटिगेशन वह पहला नाम था, कि यदि बंधक मजदूर को न्याय नहीं मिल पाता था, अनुसूचित जाति और जनजाति के लोगों का उत्पीड़न होता था, महिलाओं पर अत्याचार होता था, पुलिस जुल्म-सितम या अत्याचार करती थी, लोकल गवर्नमेंट एजेंसी से न्याय नहीं मिलता था, तो ऐसे लोग पब्लिक इंटरेक्ट लिटिगेशन में जाते थे । यह जो व्यवस्था प्रारंभ की गई थी, यह प्रारंभिक व्यवस्था उचित थी । आज भी मैं इस बात का पक्षधार हूंम लेकिन इस बात का विरोधी हूं कि पब्लिक इंटरेक्ट लिटिगेशन को इतना व्यापक रूप दिया जाए कि लोग अपने पोलिटिकल स्कोर सेटल करने के लिए इसे अपना माध्यम बना ले और सामाजिक रूप में ऐसी कालिख पोत दें ।

महोदय, जैसा मंत्री जी ने कहा, सालों तक केस चलते है । अब जब तक केस चलता है, तब तक वह व्यक्ति, जिसके खिलाफ पब्लिक इंटरेस्ट लिटिगेशन दायर किया हुआ होता है वह समाज में घूमने लायक नहीं होता है । इसलिए कहीं न कहीं किसी न किसी रूप में ऐसी व्यवस्था बनाए रखने की आवश्यकता है, ऐसा मापदंड बनाए जाने की आवश्यकता है कि पब्लिक इंटरेस्ट लिटिगेशन की एक्सेप्टेबिलटि के लिए कोड आफ कंडक्ट किस प्रकर का तय किया जाना चाहिए, क्या रूल्स और रेगुलेशन बनाए जाना चाहिए । माननीय मंत्री जी, यदि आप मेरे इस बिल में दिए मेरे ऐम्स एंड ओब्जेक्टस को पढ़ें तो मैंने इस चीज को बहुत स्पष्ट किया है । मैने अपने लास्ट पैरा में लिखा है – ऐसा मुकदमा दाखिल करने की उसकी मंशा की पूर्ण जांच की जानी चाहिए ताकि उसके वास्तविक प्रयोजन का पता लगाया जा सके । इसी में आगे है कि यदि वह जो आरोप लगाता है वह उसे साबित नहीं कर पाता है तो उसकी असदभावनापूर्ण मंशा की उसे भारी कीमल चुकाने

की कुछ न कुछ किसी न किसी रूप में व्यवस्था की जानी चाहिए ।

महोदय, मैंने अपने बिल के ऑब्जेक्शन एण्ड ऑब्जेक्शन में इस चीज को इंगित किया है क्योंकि मैं ऐसा मानता हूं कि पब्लिक ईटरेस्ट लिटिगेशन एक ऐसी सामूहिक चीज है जिसके जरिए गरीब को आर्थिक, सामाजिक और सांस्कृतिक न्याय मिल पाता है, इसलिए इस व्यवस्था में किसी प्रकार की बंदिश नहीं लगानी चाहिए, लेकिन अंकुश, लगाना चाहिए ।

कहीं न कहीं इस पर नियंत्रण होना चाहिए वरना इज्जतदार और ईमान्दार लोगों को लोकहित याचिका के नाम पर अदालतों में घसीटने का जो एक कुत्सित प्रयास चल रहा है, उस पर किसी न किसी रूप में कोई रोक नहीं लग पाएगी और लोग इस प्रकार बेइज्जत होते रहेंगे । इसलिए जब गलत एविडेंस देने के लिए आई.पी.सी. की धारा 193 में कहीं न कहीं किसी न किसी रूप में दंड का प्रावधान रखा गया है तो गलत तथ्यों के आधार पर इंटरेस्ट लिटिगेशन का मुकदमा दायर करने के लिए किसी न किसी रूप में, सांकेतिक रूप में ही सही, वार्निंग के रूप में ही सहीम ऐसी व्यवस्था होनी चाहिए कि जो पी.आई. एल. दायर करता है उसके खिलाफ किसी न किसी प्रकार की कार्रवाई हो ।

दी बाते और कहकर मैं आपनी बात समाप्त करना चाहूंगा । एक तो यह देखना चाहिए कि जो गाइड्लांइस तैयार की है सुप्रीम कोर्ट ने, हाई कोर्ट ने पी.आई.एल. की एक्सेप्टिब्लिटी के लिए, वे गाइडलाइन्स थोडी व्यापक और बहुत पर्याप्त होनी चाहिए । एक ऐसी व्यवस्था होनी चाहिए । दूसरे, यह भी देखना चाहिए कि पी.आई.एल. का जो जजमेंट जो जाता है, उसका इम्प्लीमेंटेशन हो पा रहा है या नहीं । कोर्ट के आफिशियल्स की एक ऐसी टींम बननी चाहिए जो यह सुनिश्चित हो रहा है । महोदया, यह एक बात देखने में आई है कि आर्डिनरी जो केसिस चल रहे है और इसी दौरान कोर्ट में कोई पी.आई.एल. दाखिल कर देता है और इसी दौरान कोर्ट में कोई पी.आई.एल. दाखिल कर देता है तो वरीयता के क्रम में पी.आई.एल. की पहले सुनवाई होती है । इसका नतीजा यह हो रहा है कि सुप्रीम कोर्ट और हाई कोर्ट में जो केसिस सालों से लम्बित है और ज्यादा लम्बित होते जा रह है और उनकी जो पेंडिंग नम्बर आफ केसिस है, वह बढ़ती जा रही है । इसलिए इसमें कहीं न कहीं अंकुश लगना चाहिए ।

दूसरे, पूरा सदन कई बार जिस पर चिंतित रहा है और जिसकी चर्चा की गई है – ज्यूडिशियल एक्टिविज़्म की – उस पर भी जारा ध्यान रखना चाहिए कि कहीं पी.आई.एल. ज्यूडिश्यिल एक्टिविज़्म के लिए रास्ता प्रश्स्त न करे । इस प्रकार की व्यवस्था होनी चाहिए, कहीं न कहीं इस पर अंकुश लगाया जाना चाहिए । सन 1984 से 1995 के बीच करीब डेढ़ लाख लेटर्स से केवल 500 रजिस्टर हुए और उनमें से फिर कितनों का जजमेंट हुआ, माननीय मंत्री जी अपने लेवल पर यह देखे कि उनका इम्प्लीमेंटेशन किस आधार पर हुआ है यद्यपि यह व्यवस्था आपने की है कि जो याचिका दायर करता है यदि वह पर्याप्त सबूत नहीं दे पाता है तो कोर्ट्स में ऐसी व्यवस्था सुनिश्चित की गई है कि एस्कपर्टस का एक कमीशन बैठे और यह कमीशन अपनी रिपोर्ट उस संबंध में प्रस्तुत करे । उस रिपोर्ट के आधार पर हाई कोर्ट या सुप्रीम कोर्ट में जजमेंट दिया जा सकता है, जिसके खर्चे का वहन स्टेट किया करती है। तो यह भी अतिरिक्त पैसे का व्यय है । तो इसलिए मैने यह कहा कि जब पी.आई.एल. की एडमिसिब्लटी और एक्सेप्टेब्लिटी का सवाल है तो उस पर किसी न किसी रुप में नियंत्रण करने की आवश्यकता है । अभी पिछले दिमो कई लोगों ने यह कहा था कि कहीं ऐसा न हो पी.आई.एल.पोलिटिकल इंटरेस्ट लिटिगेशन हो जाय । इस पर ध्यान देने की जरूरत है, यह मेरा आपसे निवेदन है ।

अंत में मैम एक बात और कहना चाहूंगा । मेरी अपनी जानकारी के अनुसार पिछली सरकार के समय पी.आई.एल. की एडमिसिब्लिटी के संबंध में कोड ऑफ कंड्क्ट बनाने के लिए, मापदंड तय करने के लिए केबिनेट नोट तैयार हुआ था । उस केबिनेट नोत पर माननीय मंत्री जी गौर करें और देखें कि जिस मंशा में पी.आई.एल. की व्यवस्था जारी की गई है, यह पी.आई.एल. की व्यवस्था जारी तो रहे लेकिन कहीं न कहीम, किसी ना किसी रूप में लोग अपने पोलिटिक्ल स्कोर को सेटल करने के लिए, अपने व्यावसायिक स्कोर को सेटल करने कि लिए, पर्सनल स्कोत को सेटल करने के लिए इसको माध्यम न बनाए । इस पर नियंत्रण करने के लिए उस केबिनेट नोट पर आप गौर करें और कोई मापदंड बनाते हुए एक व्यवस्था करें, ऐसा मेरा आपसे अनुरोध है ।

महोदय, चूकि माननीय मंत्री जी ने खुद इस बात क एहसास किया है कि पी.आई.एल. को लोग अपने स्कोर सेटल करने के लिए एक माध्यम बना रहे है, इसलिए कहीं न कहीं इस पर गौर करने की जरूरत है और जब उनका ध्यान इस बात कि ओर गया है तो मैं अपना बिल वापिस लेता हूं उस उम्मीद्के साथ कि वे शीघ्र ही

ऐसी व्यवस्था करेंगे कि पी.आई.एल. की एडमिसिब्लिटि और ऐक्सेप्टेब्लिटी में कहीं न कहीं, किसी न किसी रूप में नियंत्रण होगा, अंकुश लगेगा। धन्यवाद।

The Bill *was, by leave, withdrawn.*

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Now, we will take up the Ragpickers and Other Vagabond Street Children (Rehabilitation and Weflare) Bill, 1994.

THE RAGPICKERS AND OTHER VAGABOND STREET CHILDREN (REHABILITATION AND WELFARE) BILL, 1994

श्री अहमद पटेल (गुजरात): महोदय, मैं प्रस्ताव करता हूं कि:—

> "कबाड़ बीनने और निस्सहाय निराश्रित बालकों हेतु जो अपने स्वास्थ्य और जीवन के लिए खतरनाक कूड़े-करकट के ढेर और अन्य स्थानों से अपशिष्ट सामग्री इकट्ठा करके और इसे बेचकर जीवन निर्वाह करते है, संघ सरकार और राज्य सरकार द्वारा किए जाने के लिए कल्याणकारी उपायों और शिक्षा प्रशिक्षण, व्यावसायिक शिक्षा तथा मार्गदर्शन के जरिए उनके पुनर्वास तथा उससे संबंधित और उसके आनुवांगिक विषयों का उपबंध करने वाले विधेयक पर विचार किय जाए।"

महोदया,कहा जाता है कि इंसान की जिंदगी का गोल्डन पीरियड या स्वर्ग युग बचपन होता है और इसलिए किसी ने ठीक ही कहा है कि:

"ये दौलत भी ले लो, ये शोहरत भी ले लो,

भी ही छीन लो मुझसे मेरी जवानी।

मगर मुझको लौटा दो वह बचपन का सावन,

वह कागज़ की कश्ती, वह बारिश का पानी।"

महोदया, कुछ अभागे बच्चे ऐसे भी है जिनके मुकद्दर में, जिनके नसीब से बचपन नहीं होता। वे बचपन में ही बालिग हो जाते है। उनको यह भी नहीं मालूम कि बचपन की शरारतेम क्या होती है, बचपन की अठखेलियां क्या होती है, लुका-छिपी का खेल क्या होता है। उनको यह भी नहीं मालूम कि तितलियोम के पीछे भागना क्या होता है। वे बहुत ही नारकिय या दु:ख भरा जीव्न बिताते है। उनके लिए मां की ममता या बाप का प्यार या तो किसी सड़क का फुटपाथ है या कोई बस का अडडा है या कोई रेलेवे प्लेटफार्म है। उनके लिए नीचे धरती और ऊपर आसमान है। उनके नसीब में बचपन इसलिए नहीं है क्योंकि उनके मां-बाप नहीं आर्थिक स्थिति सहीं नहीं है फिर उनके मां-बाप नहीं है। वे शिक्षा नहीं ले पाते और मां-बाप की आर्थिक स्थिति सहीं न होने की वजह से बच्चों की एक वह श्रेणी है जो बचपन से ही भीख मांगने का काम करते है। आप देखें कि आपकी गाडी जिस सड़क से गुजर रही होगी तो चौराहे पर एक छोटा सा बच्चा फटी हुई कमीज पहने होगा और हाथ फैलाए खड़ा होगा या कोई मां अपने बच्चे को गोद में लेकर खडी होगी या कोई बच्चा अपना अंग-भग करके अपने परिवार का पेट पालने के लिए भिक्षा मांग रहा होगा या आपकी गाडी क शीशा साफ कर रहा होगा इसी उम्मीद में कि शायद कुछ पैसे मिल जाएं जिससे वह अपना पेट पाल सके।

महोदय, बच्चों की एक दूसरी श्रेणी वह है जो बाल मजदूरी का काम करते है। आप देखेंगे कि कोई कई बच्चे ऐसे है जो चाय की दुकान पर कम करते है या किसी ढाबे मेम काम करके अपना पेट पालते है या किसी घर में छोटू बनकर रह जाते है या किसी पनवाडी की दुकान पर काम करते है क्योकि उनके मां-बाप आर्थिक तौर पर गरीब है और उनके पास पैसे नहीं है।

महोदया, इसके अलावा बच्चों की श्रेणी वह है जो खास तौर पर कबाड़ बीनने का काम करते है। चाहे गरमी हो, चाहे बारिश हो, चाहे सरदी हो, पूरा दिन आप पाएंगे कि वे सड़क पर या जहां कूड़े-करकट के ढेर है, उसमें से वे रद्दी कागज, प्लास्टिक लोहा आदि ढूंढ़ते फिरते है। कुछ दिन पहले ही हमने अखबार में यह समाचार पढ़ा था कि कुछ बच्चे हास्पिटल के नजदीक जो कूड़ेदान है, उसमें से मरीजों पर प्रयोग की गई जो पट्टियां होती है या इस्तेमाल की गई सुइयां होती है, उनको बीन रहे थे ताकि उसको बेचकर वे कुछ पैसे पा सकें और अपने परिवार का निर्वाह कर सकें। कभी-कभी ऐसा भी होता है कि यह सब करने की वहज से वे बीमारी के शिकार हो जाते है और जब उन्हे उचित चिकित्सा नहीं मिलती तो उनका जान चली जाती है। काल-कल्वित हो जाते है। दूसरी यह भी श्रेणी है कि जो बच्चे या तो आवारा कहलाते है या गली के बच्चे कहलाते है क्योंकि उनके मां-बाप या उनके बाप शराबी है, पैसे उसके पास नहीं है जिससे वह शिक्षा नहीं दे पाते है। ऐसे जो बच्चे हैं कभी-कभी दादाओं और गुंडों की कम्पनियों में, उनकी सोहबत में आ जाते है , नशीले